
THE
HISTORIAN UNMASK'D:
OR, SOME
REFLECTIONS
On the Late
HISTORY
OF
Passive Obedience:

By Thomas Long

James M. Smith

THE
HISTORIAN UNMASK'D:
OR, SOME
REFLECTIONS
On the late
HISTORY
OF
Passive-Obedience.

WHEREIN
The DOCTRINE of
Passive-Obedience and *Non-Resistance*
Is truly Stated and Asserted.

*By one of those DIVINES, whom the Historian hath
Reflected upon in that Book.*

And late Author of the *Resolution of several Queries, concerning Submission
to the present Government.* As also of an Answer to all the Popular Ob-
jections, against the taking the Oath of Allegiance to their present Majesties.

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SOME
REFLECTIONS

On the late HISTORY

OF

Passive-Obedience.

TWO great Advantages the Established Church of *England* hath gain'd by those severe Tryals, which in the late King's Reign it was severely exercised with. The first is, that she hath delivered her self from the Imputation and Jealousie of being too much affected to Popery, of which she manifested so great an Abhorrence, even when Popery was in its Ascendant, and made too near an approach to the Throne. And the Controversie was managed with so much Learning and Success, that she hath acquired deservedly the Title of, *More than Conqueror*. The next is, the Calumny of her being of a Persecuting Spirit; which, not only her readiness and bounty for the Relief of such Protestants as were under Persecution (though in many things they differed from her persuasions) but her exposing her self to suffer for the Protestant Religion, all those Afflictions, which were actually executed on some, and intended against all the Members of that Church, hath well-nigh silenced. And lest she should fall under that *Woe* which our Saviour hath denounced against those of whom all Men shall speak well,

Luke 6. 26. A late Historian hath represented the greatest part of that Church, as a Generation of Men, that have renounced their first Principles of Loyalty, and acted contrary to their Solemn Oaths and Declarations. Whether the Author be a Papist, or some such Journeyman of theirs, I shall not enquire; but that he hath done a very acceptable work to them, is very manifest; for if all those Persons which he names, and consequently all others that have taken the Oath of Allegiance to our present Sovereigns, be Apostates from their Loyal Principles and Publick Declarations, and Oaths; we can never upbraid the Papists with their Equivocations, Dissertations of Oaths, and Plots and Conspiracies against our Princes. Now, though I doubt not among so many learned Men (of more Abilities and Advantages than my self) who are concern'd in these Reflections of the Historian, will vindicate themselves and their Brethren, yet I think my self particularly obliged, having already asserted that to be our Duty, which he imputes as our Crime, to wipe off that filth which he hath endeavoured to fasten on us.

It was an excellent Defence which the Noble Earl of Ossory made in the House of Lords for his Renowned Father, the Duke of Ormond, against the unworthy Reflections of the E. of S. *First* (saith that Noble Earl) *I will tell you what my Father hath done: He hath faithfully served the Crown with his Life and Fortunes in all Conditions, as well Adverse as Prosperous; He staid for him at home, and suffered with him abroad; he endured the loss and sequestration of his Estate for many years, without any reparation by beneficial Offices. And now I will tell what my Father hath not done: My Father did not advise the shutting up of the Exchequer, he did not contrive the breaking of the Triple League, nor did my Father encourage the seizing of the Smirna Fleet; he never bore Arms against his Sovereign, or was found in any Plot or Conspiracy against the Crown.*

The like Defence I shall make against the virulent Accusations of the Historian, and shall first instance in what they have done: They have Preached up Loyalty on all occasions, against the Principles and Practices of Papists and Fanaticks; they have suffered Sequestrations and Imprisonment for their Loyalty in the days of *Charles* the First; they have defeated the Plots and Attempts of all disaffected Persons in the Reigns of *Charles* and *James* the Second. They have stoutly withstood the united strength of Papists and Sectaries, which conspired their Ruine: They suffered under the late King, for refusing to Obey him in things unlawful, and never failed to Obey him according to the Laws; they prayed for him, and in humble manner Petitioned him, and gave him such wholesome Counsel, as might make him Happy both here and hereafter.

And now let me tell you what they have not done: They have not Preached up an Arbitrary and Absolute Power in their Prince, to dispence with the Laws established; They have not encouraged a standing Army, nor Addressed their Thanks for a Toleration and Indulgence of Papists and Sectaries. They have not promised Obedience without a Reserve, they have not taken Arms under him, to fight for Popery and Slavery, nor yet to resist him, or expose him to his Enemies.

Yes these are the things which the Historian expects we should have done, and submitted our Religion, Laws, and Liberties; yes, our very Lives to those who were prepared to devour them all: All this the Historian expected as the necessary Consequences of our Doctrine of Non-Resistance, and Passive Obedience; (though neither *Parker* nor *Carrwright* would ever have inferred such a conclusion from those premises) nor were ever intended by those Doctrines; as by the mature determination of some of those Reverend Divines which he hath quoted.

quoted, will hereafter appear. If therefore our not doing those things above-mentioned, be the Crimes which are laid to our charge, we shall plead Guilty, and use the like Defence for our selves, as *St. Paul* did, *Act. 23. 6.* when he was smitten contrary to Law: *Men and brethren, concerning the resurrection of the dead are we called in question.* For our Deliverance from so great a Death as was prepared for us, was a Miracle next to the Resurrection of the Dead, and was not done but by God's own power. And the wonderful Providence of God in contriving our Deliverance, so as at the same time to fall into no sin, and to be delivered from all danger, *Is the Lord's doing, and marvellous in our eyes.*

It was a great straight that *David* was in, when being persecuted by *Saul*, he fled to *Achish*, and being kindly entertained by him, and made Captain of his Guards, he offered to fight for him against *Saul*; whereby he was engaged either to fight against *Saul*, or to betray *Achish* his Benefactor: But by the Providence of God, the Lords of the *Philistines* having conceived a jealousy that *David* would betray them, prevailed with *Achish* to dismiss him; and so he retired to his own City *Ziglag* and secured it against his Enemies.

Much like this was the Case to which the Clergy of *England* were reduced: They were terrified and oppressed by their Prince; the present King undertakes their Protection and Deliverance; they being no Men at Arms, were not obliged to fight for the one, or against the other; in this Juncture their Duty was to stand still, and wait for the salvation of God; which they did, and God wrought Deliverance for them, as he did for *David*, and they lay down peaceably every Man under his own Vine, as free from sin, as from danger. *Rumpatur quisquis rumpitur Invidia.*

Now to remove the Prejudices which the Historian hath insinuated into the minds of some, to make them of his own Opinion, that such of our Clergy as have taken the late Oath, are as wicked as he represents them: And to state the present Case aright, I shall premise these things to consideration.

There are Two Extream Opinions which some Men have espoused concerning Monarchy: The First Sort hold:

- I. That Monarchy is *Jure Divino*; which would infer, that all other Species of Government are unlawful.
- II. That the Monarch hath such an indelible Character of Majesty and Sovereignty inherent in his Person, as cannot be erased or dissolved but by his Death.
- III. That every Supreme Monarch hath an Absolute and Arbitrary Power over his Subjects, independent on the People, and paramount to all Laws, which he hath Power to dispense with, as he shall think fit; and that the Laws are only Acts of Grace, and Condescensions granted by the King. And consequently,
- IV. That though at his Coronation he have Sworn to maintain such Laws, yet he is not obliged by his Oath, when he shall see cause to do otherwise.

The Second Sort would depress the Majesty of Kings too low. And they hold:

- I. That the Original of all Power is from the People, and that they may resume it on Male-Administration.
- The Papists hold, That there is such a Power in the Pope, who in Case of Heresie, may depose one Prince and set up another, in *Ordine ad Spiritualia*. And some of the Presbyterian Perswasion, affirm the same Power to be in their Synods.

That

That Democracy, or the Government of the People by a Common-wealth, is more eligible than that of Monarchy.

The Church of *England* walks in a middle way between these; and holds, That though the King be not strictly *Jure Divino*, (*i. e.*) so as to make other Species of Government unlawful; yet is he the Minister of God, and not of the People, though the Power be conveyed, *Medius Populo*.

That he is in all Causes and over all Persons, both Ecclesiastical and Civil, Supreme Governor.

That though he be Supreme, yet he is not Absolute to do whatever he shall please.

That Kings are generally limited, either by certain Laws and Agreements with their People, or those Ends for which Government was appointed by God.

That the Parliament of *England* have part of the Legislative Power, without whose concurrence, no Acts of the King do bind the Subject.

That Kings are bound by those Oaths, which they have taken at their Coronation, to defend the Religion, Laws, and Liberties of the People. And that our Laws and Oaths are the Measures, as well of Government to the King, as of Obedience to the People.

That though the King may dispense with a particular Law, *pro hic & nunc*, for the Publick welfare, (wherein *Salus populi Suprema Lex*) yet he cannot ordinarily dispense with Fundamental Laws, to alter Religion, and the Species of Government; and destroy the Liberties and Privileges of the People; particularly when by Law it is agreed, how the Members of Parliament, and Officers Military and Civil, ought to be qualified; it is not in the Power of the King to dispense with unqualified Members and Officers.

That

That although no Degrees of Subjects have Power to co-erce, resist, or depose the King for Male-administration, yet Cases may happen whereby he may *exuere personam Regis*, cease to be King, and the Obligation of his Subjects be made void.

As first, in Case of Conquest in a just War, when the Conqueror protects the People in their Laws and Liberties, and is in a plenary possession; especially if the conquered King flies to a professed Enemy of the Nation, and seeks to subject or enslave his People to such a Forreign Power.

2. In Case of Lunacy and a settled Distraction of Madness, which makes him utterly unfit to Govern himself, he hath only *nomen sine Re*, no Power of Administration.

3. In Case a King obstinately persists to Subvert the Species of Government, to alter the Religion, to subject his Dominions to the Pope, or *French* King, and for want of Power to effect it, wholly deserts the Government, and not only leaves his People in a state of Anarchy and confusion; but he himself enters into a state of War, and procures the assistance of Forreign Princes to spoil and destroy the People.

That no Precept of the Gospel, nor any Law of God doth interfere with, or annul the Constitutions of a Nation, or the general Ends of Government, (*viz.*) the welfare of the Community; for as King *James* said, *The King is for the Commonwealth, and not the Commonwealth for the King*: And the End is more Noble and Valuable than the Means.

That if any Laws be made on an emergent occasion, which may prove destructive to the Fundamental Laws, and the Publick Welfare, such Laws are not obligatory, by reason of a previous obligation, for the preservation of our selves, and of the Community.

These are the leading Rules which we of the Church of *England* have followed, and which we hope, will in the judgment of all sober Men, excuse us from those black Characters of *Time-Servers*, *Apostates*, &c. which the Historian would brand us with, only for transferring our Allegiance from the late King (upon whom the Jesuits had practised their Power of Transubstantiating, and made him of a King to be No-King) to the present King and Queen; wherein only, for ought I yet see, the Historian differs from us; for as to the Authorities and Reasons by him alledged, we are very near of the same mind: And because he says in the conclusion of his Preface, That he should be sorry that he hath lost his Labour: (*viz.*) If we be not perswaded to deny and withdraw our Allegiance from King *William* and Queen *Mary*, I do assure him, I am as sorry that his Labour should be lost, as he himself can be, and to think with how much greater sorrow he may be overwhelmed, if his Labour be not lost; For what can follow if his Design should take the desired effect? (*i. e.*) If the late King should return with full Power to execute his whole pleasure in such an arbitrary manner as he began, but the total Destruction of our Religion, Laws, and Liberties; in which Case, if the Historian be yet a Protestant, he must turn Apostate, and declare for an arbitrary independant Power in the late King, or prepare himself to suffer whatever that King and his Instruments shall think fit to inflict on him; which will be no cause of Joy to him, though his Labour be very successful. Wherefore I desire him to consider, whether seeing we do still agree in those Doctrines of Non-Resistance, and Passive Obedience rightly stated and understood, it were not more advisable for him to submit his Opinion to the Judgment of those Divines, upon their more mature and particular consideration of the Obligation of those Doctrines, in such a Case

as hath now hapned; or at least to the Determination and Establishment by Publick Consent, now happily settled, and by all Christian Princes approved of, the *French* only excepted, than so resolutely to persist in his Opinion, to scandalize such as have taken the Oaths, and to affright others from doing the same; and like *Jeroboam*, to make *Israel* to sin.

To put a stop to this Gangreen, my next endeavour shall be to find the Nature of Non-Resistance and Passive-Obedience: In order whereunto, I shall enquire first the Sense of the Scripture; and secondly the Sense of our Laws. As to the Scripture we find it in a Prohibition of our Saviour, *Matth. 5. 39.* *μη ἀντιστάτω τῷ ὀνείῳ, (i. e.) Not to resist an injurious person, (viz.)* So as to return the like Injury on him, recompensing evil for evil, it being unlawful for a private person to avenge himself, and take an Eye for an Eye; and this Precept obligeth only in lesser Injuries, which are tolerable and supportable without any great damage to our Bodies or Estates, such as a blow on the Cheek, taking away a Coat, and compelling a person to go with him a Mile, which is but a small restraint of his liberty: So *Dr. Hammond* in his practical Catechism, expounding the Precept, restrains it to matters of a light nature, and to a light contumely; and again, such slight Injuries, in which cases notwithstanding, for prevention of greater Evils, which we have just cause to fear, it is permitted to seek such reparation as the Laws under which we live do allow. But in cases of greater Injuries, as in *Exod. 22. 2.* when a Thief is found breaking up, and be smitten that he die, there shall be no Blood shed for him; in such a Case the Law of Nature allows, *Moderamen inculpatæ Tutelæ*: And if I have assurance that a malicious person comes to take away my life, I may kill, rather than be killed. So *Dr. Hammond*, who proposing the Question, *What is the general*

nature of the Precept? answers, That the Injuries be tolerable and supportable, in respect of what is already done, and what may be consequent on our bearing them; this concerns private persons: As to our not resisting our Governours, he that resisteth them is condemned by the Apostile; and the word is by *Hesychius* parallel'd with *disruptum*, raising War against him, where according to the former Exposition, if the Injury done by a Prince be tolerable, and supportable, without destroying the Ends of Government, and the Common Welfare, they may not resist, but in such desperate Cases they are bound by a Superior Law, *Salus Populi*: which being the End of Government, is to be preferred before the Means, it is lawful to defend themselves. To this purpose, Bishop *Sanderfon*, p. 216. *De Consc. A Subject is not ordinarily bound to obey a Law that is very grievous, to the certain Ruin of himself and Family, unless some great necessity, or Publick danger do appear*: And if we are not bound to such Laws, much less to such Governours as are highly injurious to their Subjects against Law. And thus in case of a lesser abridgment of the Subject's Liberty, while it is tolerable, and tends not to his utter Ruin, the Subject must be passive, but when the loss of their Liberty tends to the loss of their Lives, and Estates, and so the common Ruin of the present Subjects, and their Posterity, *Quin & resisti potest non dubito*, saith *Grotius*: In such case Resistance may be made; and yet we did not resist, but only with-hold our assistance, and only did not do what in truth was not in our power to do, to which no Laws nor Oaths could oblige us to defend the late King in all his Extravagancies. But because the Precepts of the Gospel do not interfere with the Civil Constitutions of a Nation, let us consider how far the Laws of our Land do forbid Resistance.

There

There are two Laws made in the Reign of *Charley* the Second upon special occasions, which forbid resistance by any persons; on any pretence whatsoever; the first is the *Stat 13 Ch. 2.* when the Parliament having fresh in their minds the War against *Charles* the First, wherein many Members of both Houses, as well as the Royal Family, had been great Sufferers, they made it unlawful for both Houses of Parliament, to raise War Offensive or Defensive, &c. The second is the Corporation Act, which says, *It is not Lawful on any Pretence whatsoever to raise War, &c.* But both these Laws must be understood in a sense consistent with the Fundamental Constitutions for the Publick welfare, and according to the intention of the Legislators, which was to prevent the like Mischiefs, as had happened in the long Civil War between the King and Parliament, and which were then fresh in memory, and which some Malecontents were endeavouring to renew; and not to establish an Arbitrary Power in the King, that by a standing Army he might exact all his Pleasure from the People, destroy their Religions, Laws, and Liberties; and if his Disposition lead him to it, with a handful of Cut-Throats, might enter into the two Houses of Parliament, and destroy them by their own Law; and so to go through the Nation, and murder as many as they please; which is the killing letter of the Law, and of those Doctrines too taken in a strict sense, in which they are contrary to all Laws, Divine and Moral, and therefore though delivered in general terms, *Aequitatem admittunt interpretem.*

3dly, It is a needful Observation, that *de odiosis & raro contingentibus Lex non decernit*, the Law makes no provision for such odious things, as are not fit to be mentioned, and rarely come to pass; yet when at any time such cases do happen (as under the late King they did) we find our Legislators very Industrious and unanimous for

the suppressing of them. And when the Queen of *Scots* brought *French* Forces into *Scotland* to withstand the Reformation, that Parliament and Convocation, than which the Historian neither hath nor can mention a more August Assembly of the States, agreed to give a Subsidy of six Shillings in the Pound, to defray the Charge of that War, and call the Design, the Queen's using all Prudent and Godly means, 5 *Eliz* c. 24. & 27. And the Temporality call it, *The Princely and upright preservation of the Liberty of the Realm and Nation of Scotland from imminent Captivity and Desolation.* And in 35 *Eliz*. c. 12. another Subsidy was granted by the Clergy, for the Queen's Charges in the needful and prudent prevention of such Attempts as tended to the extirpation of the sincere Profession of the Gospel, both here and elsewhere. And Ch. 13. the Temporality give this Reason for their Subsidy, *Besides the great and perpetual Honour which it hath pleased God to give Your Majesty abroad, in making You the principal Support of all Just and Religious Causes against Usurpers, besides the great Succours in France and Flanders, which we conceive to be most Honourable, in regard of the Ancient League, the Justice and Equity of the Causes, &c.* And in the 39 *Eliz*. c. 27. They say, *This Land is become since Your Majesties days both a Port and Haven of Refuge for distressed States and Kingdoms, and a Rock and Bulwark of Opposition against the Tyranny and Ambitious Attempts of Mighty Usurping Potentates.* And 43 *Eliz*. c. 17. The Clergy say, *Who hath or should have a livelier sense, or better remembrance of Your Majesties Princely Courage and Constancy in advancing and protesting the free Profession of the Gospel, within and without Your Majesties Dominions, than Your Clergy?* Now who can doubt, but they would have acted the same things for their own Preservation, which they did in the behalf of others, and to which they encouraged others against the

their oppressing Princes? And it is observed, that the Assistance of the *Hollanders* cost this Nation 15000*l.* *per Annum*; and the encouraging of a Rebellion in others, is as much as if we were engaged in it our selves; and then the Nation that assisted *Queen Elizabeth* in promoting the Wars in *Scotland* and *Holland*, and King *Charles* the First in the Wars against the *French King*, in behalf of the *Rochellers*, were guilty, which is *Durus Sermo*, because, as *Grotius* says, *l. 2. c. 25. n. 4. He that doth not repel an Injury from his Confederates if he can, is as much in fault as he that doth the Injury.* And he commends *Constantine* for making War on *Maxentius* and *Licinius*, who persecuted such of their own Subjects as were Christians only for their Religion; of whose Opinion in this case, I have mentioned more from his *l. 2. c. 25. n. 8.* which sheweth, notwithstanding what our Historian says to the contrary, that in the Judgment of our Nation, as well Clergy as Laity, there may be a Restraint laid on such Princes as would destroy the Religion, Laws, and Liberties of a People: And notwithstanding the former Declarations of the University of *Oxford*, when an alteration of our Government was designed, and vigorously carried on, condemning many Heterodox Opinions; yet upon mature Consideration of the Revolutions that have lately happened, they have since taken up new Measures, with almost a general consent, upon that alteration of Affairs, which they could not fore-see, and therefore not determine of. But I shall not presume to plead their Cause, they are of sufficient Age and Abilities to answer for themselves. In the mean time I see no cause, why the Historian should so signalize himself, for his great Loyalty above others; when, as *David* pronounced of *Abner*, *1 Sam. 26. 16. That he was worthy to dye, because he had not kept his Master more carefully, but slept when his Spear and his Crus-*

was taken from him; so might the late King, if ever he should return, charge him with a *Male defensus*, for not discovering the Traiterous Conspiracy against him, and to his power assisting his Person, according to his Oath; for I suppose, his Sword would not discern whether he were a *Guelfe* or a *Gibelline*, or take any notice of his Loyal History, which was so unseasonably published.

4thly, There are only these two things remaining, at which such as refuse the present Oath of Allegiance do stumble. The first is, the Example of the Primitive Christians; The second is, their former Oaths of Supremacy and Allegiance.

As to the first, the Primitive Christians lived under such Heathen Emperors, as has had an Absolute and Arbitrary Power, whose Edicts had the force of Laws, and so they differed from us, who have our Religion establish'd by Law: Now their Religion being contrary to those Edicts for worshipping other Gods, did expose them by their very Profession to Persecution: It doth not appear, that they were under any Oaths to their Heathen Persecutors, but they were under the Precepts of the Gospel, not to resist them, and they chose to dye, rather than to resist; but then it may be observed, that though they fought for their Emperors, against other Pagan Princes, they refused to fight for them against their Christian Brethren, as *Gratius*, l. 1. c. 1. §. 9. quoteth *St. Ambrose*, who saith, *That the Apostate Julian had many Christian Souldiers under him, who, when he commanded them to fight against the Common Enemies of their Country, they obeyed him, but when to fight against Christians, then they acknowledged none but the Emperor of Heaven.* And in *Tertullian's* time, they thought it unlawful to list themselves after Baptism, under Pagan Princes; and one *Maximilian*, an *African*, suffered Martyrdom for refusing to fight under the Emperor, *ob spretam Militiam De Corona*,

c. 11. They prayed for and obeyed their present Emperors, but were not curious to enquire after their Titles, though some came to the Empire by Murther of their Predecessors, and usurping on such as had better Titles; and when any of those Emperors were deposed, or taken Prisoners, they were not solicitous to endeavour their Restoration; as when *Valerian* was taken by the *Persians*, and cruelly handled, yet *Non omnino repetitus est*, agreeable to that Sentence of *Nicetas*, *Choniatas nec Imperatorem qui absit querendum nec qui adsit pellendum esse*; and it is observed, that of Thirty Emperors in those Primitive times, at least Twenty of them were Usurped upon, Deposed, Captivated, or Slain with the Sword, without any reluctance or great concern of the Christians, who thought of no farther Obligation, than to the Emperors in being, according to that of our Saviour, *to render to the Cæsar that was in being*, though a Persecutor and Usurper, *the things that were Cæsar's*, which is the sense that *Grotius* gives on that place, *De Jure belli*, c. 4. §. 20. *In re controversa judicium sibi privatus sumere non debet sed possessionem sequi sic tributum solvi Cæsari Christus jubet*, *Matth. 22. 20. quia in possessione erat Imperii & nummus ejus imaginem habuit*; and so the Primitive Christians understood that of the Apostle, *Rom. 13. The powers that be (viz.) in possession, are ordained of God*, and their practice was accordingly, as hath been shewn. And from these practices of the Primitive Christians, the Historian cannot find any number of the Clergy of the Church of *England* to have deviated.

As to the Oaths of Supremacy and Allegiance, which is the second Objection against the present Clergy, the Obligation by them hath sufficiently been declared void by the late King himself, but much more satisfactorily by others, that have written on that Subject: Those Oaths were very reasonable and sacred, but each of them bound us only to

our power, not to what is impossible for us to do, (*viz.*) to fight to bring back *James* the Second, which is by the Law of the Land made Treason against the present King and Queen; and if the Historian think himself so bound, I suppose he is as faulty in not endeavouring the Restoration of the one, as he hath been too Indultrious to exclude the other; besides, those Oaths bound us not only to the defence of the King (as if the Government were excluded) but expressly to withstand all such as should offer any violence to any of His Majesty's Subjects, much more to the whole frame of our Government, which too many, without any Lawful Commission, did with great violence and injustice; and we were sworn to defend, to our power, all Jurisdictions, Priviledges, &c. granted or belonging to the King's Highness, nor such as were neither granted or belonging, as the Claim and Exercise of an Arbitrary Power, and dispensing with Fundamental Laws, and altering the established Religion, as many other actions of the late King were; and lastly, I suppose, that by the plain letter of the Oath of Allegiance, which says, *That neither the Pope of himself, nor by any other means with any other, hath power to annoy the King's Countries, License any to bear Arms, raise Tumults, or offer any violence or hurt to His Majesty's State or Government, or any of his Subjects.* All which things, the Pope by any means, or in conjunction with any other (the King himself not being excepted) hath no power to do by this Oath, but having so done, the Oath binds the Subjects rather to resist than to assist, and doth certainly permit the Subjects, if not oblige them to defend themselves against all Opposers.

In a promissory Oath, the matter whereof doth respect things future, that matter is subject to change and uncertainty, and so is the Obligation also, which ceaseth with the matter; for then it may not be in the power of the

the

the person to perform what he swore to, and really intended, *rebus sic stantibus*; and no Man is bound to do an impossible thing, nor is any Oath so absolute when it is made, that it may not admit of some tacite Conditions. So Bishop *Sanderfon*, in his *Prælect.* 7. §. 7. There is *Solutio vinculi per cessationem materiae aut mutationem aliquam notabilem factam circa causam Juramenti principalem*: When the state of things is so changed from the time of swearing, to that of fulfilling, that if at the time of taking the Oath, that change which afterward followed, had been fore-seen, the person would not have taken such an Oath. Thus when *Solomon* promised *Bathsheba* to grant her Request, and she desired that *Adonijah* might Marry *Abisbag*, one of King *David's* Concubines, which was a kind of Treason for any one to attempt, except the Successor, *Solomon*, notwithstanding his Solemn Promise, instead of performing it, swore that *Adonijah* should dye; yet *Solomon* brake not his Promise, because there was a tacite Condition, that *Adonijah* should ask nothing that was unlawful.

Thus in the Oaths above mentioned, we swore to defend the King's Person, and the Priviledges and Prerogatives granted, and belonging to the Crown; this tacite Exception is plainly to be understood, that if the King should attempt to subject his Kingdom to a Foreign Power, and leaving us in Confusion, should put himself under the Power of the *French* King, which is *diminutio Capitis*, a kind of Civil Death, and by his Arms seek to destroy the Community and Government, which by those very Oaths we were bound to defend, the Obligation of those Oaths doth cease, upon his attempting such things, which if they had been fore-seen, and expressed in those Oaths, the Subjects would never have taken them.

Nöw, although some Divines in their occasional Discourses of Government, particularly of this of *England*,

seem to make it Absolute, and indefeasible, and inseparable from the person of the Prince; yet when they come to consider particular cases, which they could not foresee, or for the odiousness of them, and the almost impossibility of happening they omitted; the same Divines do agree to the Heads above-mentioned, and make Exceptions to their own General Rules, as will appear in what followeth hereafter. In the mean time, I doubt not but the Reader hath observed, that as well Divines, when they Treat of Law-matters, and Moot-cases, as Lawyers, when they handle Points and Controversies in Divinity, are guilty of many Blunders; as particularly the Authors of the Erudition, who affirm, that the Proclamations of the King are as binding as a Law: and Bishop *Banroft*, who told King *James* in the presence of *Cook*, and other Lawyers, *That the King might call and Judge any Cause personally in his Chamber.* But of this we need no other instance than the present Historian, who after so great a Deliverance, as he must confess the Nation hath had, and of which such ungrateful Murmurers as the Historian are unworthy to partake; After that the Great Assembly of the Nation have declared their Judgments by their Oaths, and many thousands of the Clergy joyned with them, presumes after an Historiographical manner, to bring them on the Stage, and represent them as Rebels, Traytors, and perjured Persons, not without Reflections on their present Majesties, as Usurpers, to say no worse, is a most uncharitable, if not an unrighteous deed, seeing he stands in a manner, *Solus contra omnes.* Had he differed through a doubting Conscience, he should have by the Apostle's Rule, *Rom. 14. 22.* kept his persuasion to himself, and with all Humility and Modesty sought satisfaction, and not have published his Opinion against the more mature Judgment, not only of our own Nation, but of all Christian Princes, who do approve of our present

present Settlement. And if my Account fail me not, there is not one of an hundred that consent with him; and before the Six Months be expired, there may not be more then one of that hundred that will stand off, and then our Historian may stand alone as *Tom of Ten Thousand*.

The P R E F A C E Considered.

THE first Paragraph of the Epistle, which shews that the Doctrine of Non-Resistance and Passive-Obedience are founded in Scripture, &c. is admitted as Orthodox, and the Doctrine of the Church of England; but being delivered in general Rules, they admit of some Exceptions, and carry with them certain tacite Conditions, and Qualifications, which in case of great alterations, would appear to be necessary and justifiable: And I suppose, that if such a case as ours now is, had been thought of or proposed, that Declaration, viz. *That it is not lawful on any pretence whatsoever to take up Arms, &c.* would certainly be excepted or provided against; as in the Case of *Edward the Fifth*, when *Richard Duke of Gloucester* seized on his Person, raised War, and granting Commissions in the King's Name; it might have been lawful for the then *Queen Elizabeth*, having the Broad Seal brought to her by the Archbishop of *Tork*, to raise an Army to rescue the King from the Usurper's Power, notwithstanding he had raised an Army, and granted Commissions in the King's Name. And the Case of the present *Irish* comes home to the point, who being invaded by the *French*, pretending Commissions from the late King *James*, who now acts under them, may undoubtedly defend themselves by

by Arms. Mr. Faulkner pleaded the Case of Non-Resistance as far as any, yet p. 542. he considers this Case: *If the Supreme Governour should according to his own Pleasure, and contrary to the Establish'd Laws, and his Subjects Property, actually ingage upon the destroying and ruining a considerable part of his People, whether they might defend themselves by taking Arms: And he instanceth in the Parisian Massacre, where about 100000 were slain in cold Blood, most of which were innocent persons, never accused or tryed by Law; which he says is such a Cruelty, as can hardly be parallel'd under Mahometism. And he grants, if ever such a Case should happen, it would have great difficulties: Grotius (says he) thinks, That in this utmost extremity, the use of such Defence, Utimo necessitatis præsidio, is not to be condemned; provided the Common Safety be preserved: Which may be true, (says he) because such Attempts of ruining, do ipso facto, disclaim the Governing those Persons as Subjects, (i. e.) according to Law; and consequently of being their Prince or King. And so the Expressions in the Declaration, That it is not lawful on any Pretence whatsoever, &c. would be secured. And p. 529. he quotes Barclay, l. 3. c. 16. *Se omni principatu & dominatu exuit atq; ipso jure sine ipso facto Rex esse desit*, l. 6. c. 23. With whom he joyns Grotius, l. 1. c. 4. n. 11. *Si Rex vere Hostili animo exitium totius populi feratur: To resist such a one is not to resist the King, but him who ceaseth to be such; and his Reason is, Consistere simul non possunt voluntas imperandi & voluntas perdendi quare qui se hostem totius populi profitetur eo ipso abdicat regnum.* And p. 531. Mr. Faulkner says, *That on yielding such Suppositions to be true, I shall grant the Answer to be true.**

The Historian is much troubled how to evade the Judgment of Bishop Bilson, which he delivers in these two passages among other: The first is in p. 520. *If a Prince submit his Kingdom to a Forreigner, or change the*
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Harm of the Common-wealth, or neglecting the Laws Establiſhed by common conſent, or execute his own pleaſure, the Lords and Commons may joyn to defend the Laws Eſtabliſhed. The other is, where he ſpeaks of the Roman Cruelties, Which are ſuch, ſaith he, as are able to ſet good Men at their Wits end; and make them juſtly doubt, ſince you reſuſe all good Laws, Divine and Humane, whether by the Law of Nature they may not defend themſelves againſt ſuch barbarous Blood-ſuckers. To theſe paſſages the Hiſtorian (acting the part of a Diſputant) replies, *That this is but one Doctors Opinion, contrary to the Doctrine of the Church:* Which is apparently falſe; for both the Parliament and Convocation, gave ready and liberal Contributions to aſſiſt the Queen in the Wars of *Holland*, againſt the *Spaniards*, at that time, of which I have ſpoken already.

2. He ſays, *Bilſon was not infallible, for he was deceived in other things.* Anſw: And moſt probably he was ſo, when he wrote contrary to thoſe paſſages, which were approved by all Proteſtants abroad, as well as by our own Nation.

3. He would invalidate the Judgment of *Bilſon*, by the Censure of *Charles* the Firſt, in theſe words: *I remember well what Opinion my Father (King James) had of him for theſe Opinions; and how he ſhewed him ſome Favour, in hope of a Recantation; but whether he did or not, I cannot ſay.* Anſw: King James was of the ſame Opinion, as to the Wars againſt the *Spaniards*; and ſo was King Charles in the Caſe mentioned by our Hiſtorian, viz. His aſſiſting the Proteſtants of *Rochel*, under the Oppreſſions of *Lewis* the Thirteenth: And it is improbable that he would ever Recant that Opinion, wherein the whole Nation, and the two ſucceeding King's did agree.

For the Hiſtorian ſays: 4ly, *That Bilſon's Book was written when the Queen was aſſiſting the Dutch, againſt her and their Common Enemy.*

Anſw.

Anſw. The War then was undoubtedly lawful, and the Bishop's Determination ſeemed ſound as to that War; but the Historian may ſee that he applies his Opinion to the *Engliſh* Government, when in the Caſes mentioned by him, (*viz.*) *If a Prince ſubmit his Kingdom to a Foreigner, or change the Form of the Common-wealth, or neglect the Laws, and execute his own Pleaſure, the Lords and Commons may in ſuch Caſes defend the Laws Eſtabliſhed* and therefore it is very unlikely that he was hired to write only in juſtification of the Wars of *Holland*. And if our Conſtitution be founded on a *Compact*, there is no difference.

But ſly, he ſays, *If the Biſhops Opinion be contrary to that of Chriſt and his Apoſtles, we ought to renounce it.* As if the Biſhop had not conſidered, that the Goſpel doth nowhere abridge the Civil Conſtitutions of particular Governments, and that it requires ſubjection to the powers that are in being. But he objects again, *That the Presbyterian made very dangerous uſe of that Book againſt King Charles the Firſt.*

Anſw. They were therein inexcusable, by ſeeking to juſtifie a Rebellion againſt ſo good a Prince, by what was chiefly intended againſt the Spaniſh Uſurpations and Cruelties, who invaded all their Priviledges Sacred and Civil, contrary to Agreement, introduced the Inquiſition, ſlighted all Petitions, and barbarouſly Murthered ſome Hundreds of Thouſands, which much altered the Caſe againſt ſo pious and merciful a Prince.

And laſtly, That which that Biſhop ſays, doth not concern the Clergy of *England*, who always did, and are ſtill reſolved to maintain and practice the Doctrine of Non-Resistance, for to that the Biſhop applys his Diſcourſe, in which the Divines whom the Historian accuſeth, have not tranſgreſſed. But to go on with the Historians Preface, ſome affirm, (ſaith he) *That the Tenet was no older than*
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Archbishop Laud, and was introduced by a few Court Bishops, for the attainment and establishing of their own grandeur. To which I answer,

It must be acknowledged, that in Bishop *Laud's* time, this Doctrine was scrued up to the highest, and frequently urged, and with great reason, the people being prepared for a Rebellion against the best of Kings; and had the Doctrine of Non-Resistance been so well practised, as it was prest, the effusion of that Deluge of Blood might have been stopped; but even then, there was an *auspicio* *vis arbitrarie*, and more than what was due was demanded, that the people might not yield less, which that ancient Rule, *Iniquum petas ut æquum feras*, might justifie. Yet the Doctrine of *Sibthorp* and *Manwaring*, who would have raised the Prerogative to an Absolute Power, as *Cartwright* and *Parker* of later days did also attempt, hath been generally exploded by all sober Divines, and Statesmen; and yet the design of this Author, is far more exorbitant, who would have the whole Nation submit to the Arbitrary Power of King *James*, to alter our Religion, Laws, and Liberties, and to kill, ravish, and ruine the whole Community, and submit all to the Pope, or *French King*; which things the Nation in darkest times of Popery have resisted, even to Blood: And this, without ridiculing, is the Doctrine of the Bow-string, which the Author would introduce into this Nation.

It is therefore just and necessary, that such General Rules and Maxims, whether Divine or Political, should be received with some restrictions; else, as Dr. *Barrow* says, *They would clash with Reason and Experience*: And therefore many formal Prohibitions are to be received only as sober Cautions; and so are general Oaths and Laws made on emergent occasions, in dangerous times, which at other times may themselves prove dangerous and destructive: As appears in that Exception of the

Jews, to the General Rule concerning the Sabbath, Periculum vitæ tollit Sabbathum, and both in Law and Equity; Omnia dicta quantumvis universalia equitatem admittunt interpretem. And it is not so much the letter of the Law, as the intention of the Law-Giver, which makes the Law: *Ratio legis & intentio Legislatoris Dominatur verbis tanquam anima corpori:* And, *Verba inserviunt intentioni tanquam fini.*

Now it could never be the intention of God in the Scripture, to set up such an Order of Governours, and invest them with such an uncontrollable Power, as to subvert the Ends of Government, or of the Legislators in our Nation, to make any one such Law, as should destroy all those other Fundamental Laws, which with mature deliberation had been anciently Established for their preservation; for both in Civil and Canon Law, this is a sure Rule: *Ex verbis quantumvis generalibus nemo præsumitur velle sibi magnum præjudicium.* Such as that Law which declares, *It is not lawful on any Pretence whatsoever, &c.* by which the late King might have sent a number of *Irish* or *French* Papists into Both Houses, and have cut the Throats of the Legislators. The Casuists therefore give many Exceptions to such General Rules, *Ex impossibili, inhumana durâ, &c.* And *Baldus* says, *Clausula de plenitudine potestatis semper intelligenda est de potestate bona & laudabili.* So that the Calumny of *Changlings*, and *Weather-Glasses*, imputed to such as have written for Non-Resistance, is malicious; the change is not in their Doctrine, which they did (and resolve still to) adhere to, as long as the King kept his station, and they were in a capacity to observe it; and that of *Seneca* is a sufficient Apology for them, *l. 2. c. 16. n. 27. Eadem mihi Præsta & idem sum.* If the late King had continued in the same Condition as he was, we should have yielded him the same submission as we did, tho' many were cruelly dealt with;

with ; that is, we should have prayed for him as our King, we should have petitioned him, and (as some of our Bishops did) have given him good Advice, to prevent the ruining of himself, and that he would have called a Free Parliament ; which, doubtless, would have provided much better for him, than he hath done for himself, by those destructive Counsels which he chose to follow ; but we would not have lifted up a hand against him, nor abridged him of any of those Rights, Priviledges, and Preheminences, which by Law belonged to his Crown and Dignity.

Nor can the Author that upbraids the Clergy for their Doctrine, instance in any one of those Writers, who did transgress that Doctrine, by resisting the King, while he continued in his Kingdom. And as *Seneca* says, *A wise Man cannot be said to change his Resolution, when things are changed from what they were at the time when he resolved : Tum fidem fallam si omnia eadem sint me permittente, si mutantur fidem meam liberat.* And those other limitations given by Bishop *Sanderfon*, are applicable to this Case : *Si Deus promiserit quoad licet Rebus sic stantibus, salva potestatis Superioris, & p. 216. de Consc.* A Subject is not bound ordinarily to obey a Law that is very grievous to the destruction of himself and Family. And *p. 202.* when the subject matter of an Oath ceaseth, the Obligation also ceaseth. *Cessante causa cessat Lex*, says *Grotius*.

This may suffice to shew, that such as the Author hath branded so maliciously, as if whatever they said or did, was to gratifie their ambitious or covetous Appetites ; as if their Honesty, like Quick-silver in a Weather-Glass, rose higher or sunk lower, as the Day proved clear or cloudy, as the greatest Hypocrites, and Time-Servers in the World ; who sacrificed their Consciences to their Desires of growing Rich and Powerful ; while had the Times been contrary to them, they would have owned

other principles; and that all their former Declarations have been only pretence and juggle, and that they have been Loyal no longer than they could get by it. *Hoc Lethæus vellet & magno mercantur Atridæ.*

His next Paragraph says, *The Doctrine (of Non-Resistance) cannot be unseasonable, since no Government can be safe without it; Mens Passions inclining them to think well of themselves, and to make Complaints of hard usage, even when they are most gently treated:* And it were well for the Author, if he be not found to be one of that sort of Complainers: As for those whom he hath so causelessly defamed, they still resolve to retain their first Principles of Non-Resistance to the present Governors; because, as he says, *No Government can be safe without it:* We therefore leave him in the Company of *Parsons* and his Party, railing at the most gentle and admirable Government, now Established under King *William* and Queen *Mary*, to whom all that have taken the Oath of Allegiance, are branded as Rebels, and perjured Persons; which in effect is to say, that there is no Allegiance due to them. But if the Author were indeed a Protestant, of the Established Church, or had any regard to the condition of other Protestant Churches abroad, he would see a necessity of transferring his Allegiance from him, that would wholly extirpate those Churches, to one, who by God's Blessing, is likely to preserve and establish them; for the lawfulness whereof, I refer him to a Treatise concerning those Oaths, written, as it is reported, by *Dr. Whistly*.

As to his upbraiding us with the Writings of *Preston*, *Widdrington*, and others in *England*, and *Ireland*, and *Barclay* in *Scotland*, some of them lived to act contrary to what they wrote; and 'tis the manner of those Men, to cloak their wicked Designs by contrary pretences, to render their Adversaries secure, while they carry on their Designs with the least suspicion, as *Watson* did, who was
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after all his *quodlibets*, executed for Treason. And Barclay clearly expresseth himself, *That a Prince, seeking the ruine of his People, is no longer King*, l. 3. c. 16. p. 112. *Se omni principatu exiit atque ipso jure sine ipso facto Rex esse desit*, l. 6. c. 23.

In the next Paragraph he tells us, *Of studying the Laws of Providence, and of considering the indispenfible Obligations of taking up the Cross*; but when Providence hath in a signal manner, without any unlawful Acts of our own, delivered us from the Cross; a little study will inform us, that we ought not to draw it down on our backs again, and to murmur against our Deliverers, as the *Israelites* did against *Moses* and *Aaron*, who brought them out of the House of Bondage, and their cruel Oppressors.

As for the Opinions of the *Gnosticks*, and *Machiavel*, I suppose that learned Person whom the Author names, hath sufficiently condemned them; and so do all those Reverend Persons whom this Author hath accused, explode the wild Opinions of *Hobs*, *Milton*, and *Cressy*, and have acted in a direct Opposition to them. And therefore he hopes in vain, *That no Man can imagine he intends any disturbance by his Writing*; for what could he intend by charging such a number of the Church of *England* as Apostates from their own Principles, and guilty of Perjury, only for taking the Oath of Allegiance to the present King and Queen? There needs a better Apology than he hath yet made for himself, to clear him from that Crime, whereof his Conscience doth accuse him, *viz.* that devilish Office of Accusing his Brethren: for what tho' he truly relate the Opinions of those great Men, his mis-applying of them, and calling them to a Recantation, and intimating, that they are the greatest Incendiaries, from whom we may justly fear greater Judgments, is as great a Reproach as the most mali-

malicious Jesuite could cast on them; for though the Preaching up the necessity of Suffering, and the unlawfulness of Resisting, be not a Doctrine likely to disturb the present Government, yet when that Doctrine is applied to the Person of King *James*, and because we did not for his sake, that would have destroyed us, resist him that came to save us; and as the *Jews* did, Crucifie our Saviour, to make way for those *Romanists* that will destroy us and our Nation; This is the sole ground of all his Clamour against us; but we are not such Children as to be affrighted by such Clamours, we keep steady to our Principles, and yielded both Active and Passive Obedience to the late King, until he made it morally impossible for us to Obey him any longer; and now that God hath set over us more gentle Governours, by the same Methods that from the beginning he did set Rulers over all other Nations; that is, *Mediante Populo*, which I could never yet see disproved, we think our selves still bound to yield them that Obedience, without which, our Author says, *no Government can subsist*. If we compare what this Author designs by his Collections, with that which the Jesuits and other Papists have written, it will evidently appear, that he intends to make the late King as Absolute in all Causes, and over all Persons, in his Dominions, as ever they intended the Pope should be, (*i.e.*) to be Infallible; to be the Supream Judge of all Controversies, to declare what is Good, and what is Evil; what is Vertue, and what is Vice. And as hath been observed of *Finch*, he attributes all the Divine Perfections to the King, (*viz.*) *Soveraignty, Omnipotence, Omniscience, Majesty, Infinity, Ubiquity, Perpetuity, Justice, Truth, and Clemency, and all these to be inseparable from his Person.*

So that he is the very *Hobbs* of this Age, whose Principles he would have all Men to espouse, as himself hath done;

done; who in his Book *de Cive*, c. 12. §. 1, 2. says, That the Rules of good and evil, just and unjust, honest and dishonest, are the Civil Laws, and therefore whatever the Law Commands, is to be accounted good and valid; and that it is a wicked speech, that Kings are not to be obeyed, unless they Command Just things. That before Empires were established, there was nothing just or unjust, which are Relatives to a Command; that Emperors make things just, which they command to be done, and unjust what they forbid; that private Men, who assume the cognizance of good and evil, do aspire to be like Kings, which cannot consist with the safety of Government.

These seem to be the Articles of our Author's, as well as of *Hobbs*'s Creed: Now let the Author review all the Writings of those learned Men, whom he hath defamed, and see whether he can Collect any such Problems out of them; whether they ever declared, that the King of *England* hath as Extensive and Absolute Power, as either the *Turk* or the *Pope*; or that the Person of the Prince had such an indelible Character of Majesty on him, as could by no means be crazed. Have any of them said, that he could not be conquered in a just War, or that on such a Conquest, we were bound to pay him our Allegiance still, and by no means transfer it to any other? Have they said, that the King might submit his Dominions to the *Pope*, or the *French* King, or that in so doing, his Subjects were bound to assist him, even to the utter destruction of the established Religion, and the Fundamental Laws and Liberties of the Nation? That it was in the King's Power to alter the Succession, and set up a Supposititious Child, to the Exclusion of his own Children, and Lawful Successors.

King *James* never declared, that he would assume to himself such an excess of Power, though he declared, that he was an Absolute Prince, and would be obeyed with-

out a Reserve, as this Author hath for him, who hath exceeded in this his Design, all those flattering and fulsome Addresses, which any the most insatuated Fanaticks presented to him. But to go on, did any of the Church of *England* say, that it was not in the Power of the King *exuere Regis personam*, to cease to be a King, and either for his Religion, or some other cause, betake himself to a Cloyster, and live as a Recluse, leaving the Administration of the Government to a Successor? Or if he were a Mad-man, and bent on the Ruine of his People, that no Restraint ought to be laid on him? In such cases you might have required a Recantation of their Errors; but when they never acknowledged more Power or Authority to be his due, than what the Laws gave him; when they never withdrew their Obedience, Active or Passive, until they were left in a state of Nature and Confusion, and could never expect that he would return to them again, or not without a Foreign Power, that would make them and their successive Generations, as unhappy, in respect of things Spiritual and Eternal, as in things Temporal; what have they done to deserve those black Characters, which the Author stigmatizeth them with? which they do better deserve; who would give the Powers of the World a kind of Omnipotence, to do all that they will, and to exceed the Devil himself, who hath his Bonds and Chains, beyond which he cannot go; and even tempt Men to be of the Opinion of the *Gnosticks*, *That all the Governments of the World are a contrivance of some evil Spirits to destroy the lives of Men, and to abridge them of their Liberties, which God and Nature have given them.*

And with what Countenance can this Author aver, that he doth only the Office of an Historian, when the whole Design is a Satyr, and an Indictment of Treason and Perjury against all those Divines, that he quoteth,
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who have since their Writings, submitted to the present Government, and sworn Allegiance to King *William* and Queen *Mary*, and seems willing that King *James* should return with his *French* and *Irish*, to be their Executioners.

It is not material to enquire, whether he hath misquoted any passages, but it is plain, he hath mis-applied them, and stretch'd them beyond the meaning of their Authors; for which I Appeal to the Author himself, and shall only demand of him, whether he himself doth, or any of those whom he quotes, ever did declare their Approbation of those Tenets of *Sibthorp* and *Manwaring*, in the days of *Charles* the First, or of the Bishops of *Chester* and *Oxon*, in the Reign of *James* the Second, whose Authorities in their own times were, as he confesseth, excepted against, as of Men that did not write soberly on the Subject, as our Author acknowledgeth.

And yet his whole Design is to shew, that the King hath a plenitude of Power, paramount to all that either of those four have mentioned, over all the Laws of the Land, over the established Religion, and the Lives, Liberties, and Estates of all the Subjects, with a *quicquid libet licet*. This is not barely to plead for an inconsiderable rate of *Ship-Money*, for granting Tolerations and Indulgences, for a Power of Dispensing with some Laws, but for the Legality of any Impositions, even to the seizing our Freeholds, of abrogating and making void all the Old Laws, and giving the Prince's Will and Personal Commands, the force of New and contrary Laws, without any muttering, or complaint of Grievances.

And if this Author have any spark of Ingenuity in him, he must with shame acknowledge, how Partial he hath been, in relating the Opinions of many, the most eminent of those Divines, whom he hath quoted, and lea-

ving out the Opinions and Arguments of others, whom though obvious to every ordinary Eye, he hath wholly omitted. I have already instanced in the decision of the present Case made by Mr. *Faulkner*, and *Barelay*, and *Bil-son*; and it were easie to fill a Volume, far greater than I intend, to shew only the Judgment of some of those Authors by him quoted, when they considered what might be Lawfully done in some Cases, against which being so odious and so rarely incident, that the Laws have taken no notice of them, or made any provision against them.

I shall give but two Instances more to this purpose; The first is, that of *Grotius*, of whom, p. 128. he says, *Whatever the learned Grotius says in his Books de Jure belli, in his later works, wherein he may be presumed to speak his truest sense, he asserts this Doctrine on Mat. 26. 52. If it be once admitted, that private Men, when injured by the Magistrate, may forcibly resist him, all places would be full of Tumult, and no Laws or Judicatories would have any Authority, since there is no Man who is not inclined to think well of himself.* This Comment is alledged, with a *Non obstante* to whatsoever he had written in his Book *de Jure belli*, because this was the latter Work; whereas it is well known, that his Book *de Jure belli* was not only written when he was in his full Maturity, and acted in his proper Sphere as a Statesman, and often reviewed it, even after his Comment on the *Gospels*, and was the Text on which almost all Civilians and Politicians did Comment, as Authentick, and for which we have his irrefragable Reasons, as well as his Authority, and in which he doth not deliver his Opinion in general, but condescends to the consideration of particular Cases and Accidents; whereas in that Comment, he only delivers his Opinion as to the general, and that not without restriction, of the Resistance of private Men, that were inclined to think well
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of themselves; whereas, when he considered the Constitution of particular Monarchies and Governments, where the Legislative Power is not solely in a single Person (as he knew it was not in *England*) he hath otherwise determined; for thus in that Famous Book, p. 21. wherein having urged all the Arguments for Non-resistance he could think of, he admonisheth his Reader of something else.

As first, *That such Persons as are under Compact with their People, if they offend against the Laws, may be restrained by force.*

And secondly, *If a King abjure his Kingdom, and desert it, all things are Lawful against him as against a private Person; for which he quotes Barclay: That if a King alienate his Kingdom, or subjects it to another, he loseth it; and then adds of his own, Si Rex reipsa tradere regnum aut subiacere molitur quin ei resisti in hoc possit non dubito nam aliud est imperium aliud habendi modus qui ne mutetur ob stare potest populus id enim sub imperio non est.*

Again, he says, *If a King have one part of the Empire, and the People another, the King attempting to destroy the Peoples Right, a just Force may be opposed; and this I think to have place, though it be said, That the Power of War (or Militia) is in the King, for that is to be understood, of Foreign War; for he that hath Right, hath Power to defend that Right; and he quotes Barclay, That a Kingdom may be lost if a King be carried on to the destruction of his People; Consistere enim non potest voluntas imperandi & voluntas perdendi. that if a King be intent on the destruction of his People, to resist such a one, is not to resist a Sovereign King, but one who ceaseth to be such. Qui se hostem totius populi profitetur eo ipsa abdicat regnum, on which place Grotius his Annotator mentioneth a Note of Jo. Major in 4 Sentent. Non posse populum a se*
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abdicare potestatem destituendi principis si in destructionem vergeret; and Grotius himself thinks, that the Law of Nature allows it, in his Notes on *Esther* 8. 11. speaking of the Edict obtained by *Mordecai* for the Jews to defend themselves, he says, *Jus naturæ munit autoritate regia*. Much more might be added from Grotius to our purpose, but he is so commonly quoted, that I forbear, and leave the Reader to judge, how well the Author hath performed the Office of an Historian, who picks and chooseth out of an obscure place, and a ~~many~~ what may make for his own Opinion, omitting those plain, obvious, and elaborate Discourses of the same Author, which would confuse it; as the Observation of Grotius on *Mat.* 22. 20. mentioned in his Book *de Jure belli*, p. 93. c. 4. §. 20. which is more adapted to the present Case. *In re controversâ (viz.)* of a Title to the Right of Government, *Judicium sibi privatus sumere non debet sed possessionem sequi sic tributum solvi Cæsari Christus jubet quia in possessione erat & nummus, ejus habuit imaginem*. And l. 2. c. 9. §. 8. 9. *de Jure belli*, *If a King dye without Issue*, (and it is the same if he be dead in a Civil sense, by Conquest, by Resignation, or wholly deserting his People, without making any Provision for their Government) *the Empire remains in the Body of the People, who may create another, and limit him, the People being sui Juris*. And as these Arguments of Grotius, which our Author omits, would have solved the *Phænomena* in the present Case, so will also the Resolution of Bishop *Sanderfon*, in the Case of the Engagement, and in divers other parts of his Treatises, of the Obligation of Conscience, and of Oaths. In the Case of the Engagement, p. 90. he says, *That Allegiance is such a Duty, as every Subject, under what form of Government soever, by the Law of Nature oweth to his Country (primarily) and consequently to the Sovereign Power*.

Power, by which that Common-wealth is governed, as is necessary for the preservation of the whole Body.----- And that if the intention of the Law-giver should be understood precisely of that particular actual and immediate intention of the Law Giver, in making a particular, it will not hold true in all Cases; but there is to be understood in the Law-Giver, a more general, habituate, and ultimate intention, of a more excellent and transcendent nature than the former, which is to have an influence into, and an over-ruling Power over all Laws, (viz.) An intention by the Laws to procure and promote the Publick Good.

The former intention bindeth, where it is subservient to the latter, or consistent with it, and consequently bindeth in ordinary cases, and in orderly times; but when the Obligation of the Law, by reason of the Conjunction of Circumstances, or the Iniquity of Times, (Contingencies which no Law-Giver could either certainly fore-see, or if fore-seen, could not sufficiently provide against) would rather be prejudicial than advantageous to the Publick, or is manifestly attended with more Inconveniencies, and sad Consequents to the Observers, than all the imaginable Good that can redound to the Publick thereby, can in any reasonable measure countervail; in such case the Law obligeth not, but according to the latter and more general intention only; even as in the Operations of Nature, particular Agents do move ordinarily according to the proper and particular inclinations; yet upon some occasions, and to serve the ends and intentions of Universal Nature (for the avoiding of something which Nature abhorreth) they are sometimes carried with Motions quite contrary to their particular natures, as the Air do descend, and the Water to ascend, for the avoiding of vacuity. And p. 216. *De Consc.* A Subject is not ordinarily bound to a Law that is very grievous; to the certain

certain ruin and destruction of himself and Family, unless some great necessity or publick danger do appear : And which comes home to the matter of the present Oath, he saith, *That when the Imposer chuseth Words capable of a double sence, it is neither necessary nor expedient that the Promiser do doubt which sence the Imposer doth mean, but may in prudence, and without Violation to his Conscience, make his advantage of the ambiguity, and take it in the laxer sence.* And we may be resolved in our present case, as he declares in that of the ingagement, p. 106. There wants not greater probabilities of Reason, to induce us to believe that the laxer sence is to be accounted the immediate and declared sence of the Imposers ; who tho' they might have a more secret reserved and ultimate intent, the Ingager is not concerned in it, the equivocation, if any, lieth on the Imposers score, not on the Subscribers, for which he gives many reasons, and the limitation which he gives to an Oath (among many others) doth deserve a remark, (*viz.*) *Rebus sic stantibus*, if things continue in the same state wherein they were ; for when a Man swears to return a Sword that he borrowed, and he of whom it was borrowed grows furiously mad, he is not bound to restore it : I shall mention but one passage more out of his *Prælect.* 5. p. 176. where he puts the question, *When any one takes the Government on him, having by Force driven out the lawful Prince, or so streightned him that he cannot pursue his Right, which is invaded not on a doubtful Right, but by manifest wrong ; what shall a good Subject that hath Sworn Allegiance to the oppressed Prince do in this case ?* *Answ.* It seems to me, that it is not only lawful for a good Subject to obey the Laws of the Prince in being, but to do what he is commanded, *Modo non sit turpe factum aut injustum* : But also if the condition of Humane Affairs require it, there may be a necessity of Obeying, or he may

may be judged to fail of his Duty. And whereas he had said, that Laws made by him, that wanted lawful Power, do not bind the Conscience, he answers, *That these things are not repugnant; because, tho' the Subject be bound to do what the Law requires; yet he is not bound to that Law, but to himself and his Country.* The Obligation is annexed to the Law that concerns himself, and is truly a Law which he thus explains: Seeing it is the Duty of a pious and prudent Man to consider, not only what is lawful, but what becomes him, and is expedient to others, a good Subject may be bound to do that for the welfare of himself and Fellow-Subjects, to which by Law he is not bound; which Obligation ariseth from the Duty he oweth to himself, and to his Country, that Wars, and Rapines may be prevented, and he may live peaceably under them, without violating the Faith we owe to the Rightful Heir. I shall mention many others, whose Judgment in particular Cases agrees with what hath been lately practised.

Bishop Hall, Decad. 2. says, *If a Thief rob me of my Treasure, and slayeth, my Conscience would not strike me, if I pursue him, and so strike him that he dies.* The same holds good, in resisting such as want a lawful Commission, and due Qualifications, which are but as Thieves and Robbers, and for want of legal Qualifications may be dealt with as such.

Bishop Taylor in his Second Volume, p. 137. resolves, *That where the Right of Succession is in a Family by Law, or Time immemorial, no Prince can prejudice his Heir, or the People committed to him, for it cannot without consent be alienated; because Persons cannot be disposed of as Slaves, or Beasts.* So that in this (and some other Cases) the King looseth his Authority, and then the force of his Authority ceaseth also: And as to the Law of Nature (for Self-
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preservation) cannot be dispensed with, saith that Bishop, by any Humane Power: 1. Because God is the Author of it. 2. Because this Law for the preservation of the Common Welfare, is as necessary to the support of Societies, as Nourishment is for support of their Bodies. 3. Because Natural Laws are the Dictates of Natural Reason; and no Man hath power to alter Reason, which is an Image of the Divine Wisdom, and therefore unalterable. And concerning the Obligation of the King's Oath, this learned Bishop gives his Opinion, quite contrary to what our Historian contends for, l. 3. p. 141. of his Cases; he says, *Kings are bound by Natural Justice and Equity, without Oaths, to do what they swear, for they are not Kings unless they Govern, and they cannot expect Obedience unless they tell the Measures by which they will be obeyed, which are the Laws, and these are the Will of the Prince; If Kings are not bound to Govern the People by Laws, why are they made? By what else can they be Governed, by the Will of the Prince, the Laws are so which are Published, that wise Men may walk by them; and that the Prince may not Govern as Fools and Lyons, by Chance or Violence, and unreasonable Passions, Ea quæ placuerunt servanda, saith the Law, De Pactis. And p. 143. Whatsoever the Prince hath Sworn to, to all that he is obliged, not only as a single Person, but as a King; for though he be above the Laws, yet he is not above himself, nor above his Oath, because he is under God, and cannot dispense with his Oath and Promises in those Cases wherein he is bound. Although the King be above the Laws, that is, in Cases extraordinary, and Matters of Penalty; yet is he so under all the Laws of the Kingdom, to which he hath Sworn, that although he cannot be punished by them, yet he sins if he break them. And p. 149. he says, The Prerogative of Kings is by Law, and Kings are so far above the Laws, as the Laws themselves have given them leave.*

leave. And p. 143. *The great Laws of the Kingdom do oblige all Princes, tho' they be Supreme. The Laws of the Medes and Persians were above their Princes, as appears in Daniel. And such are the Golden Bull of the Empire; the Saler, and Pragmatical Sanctions in France; the Magna Charta, and Petition of Right in England, &c.*

And whereas the Historian doth urge at large, the Doctrine of our Church, in the Articles, Homilies, Liturgy, and Canons, &c. it may be observed, that there is no distinction in any of those, of a King *de Jure*, and *de Facto*; but as by that Law of 11 Henry 7. did require Allegiance to the King *de Facto*, so did the Subjects under Queen Mary, and Queen Elizabeth pay their Obedience to both successively, although one of those Queens was not Legitimate; and if we pay our Allegiance to our present Sovereigns, we do not transgress either her Doctrine or Practice; unless it could be proved, that we had resisted the late King: And therefore our Historian reflects too severely on Dr. W.—, who said, *That Passive Obedience, in the narrow sense we take it in, was not so much as thought on, when these Homilies were Published; those Homilies being aimed against the Usurpations of the Church of Rome, to which they never intended Obedience.* And when, as our Historian observes, *That as well evil as good Kings do Reign by God's Ordinance, and that it is a perillous thing, to permit Subjects to judge which Prince is wise and godly, and his Government good, and which otherwise, it may be supposed, they intended our Obedience should be paid to the present King.*

But because the Laws are the Measures as well of the Princes Power, as the Subjects Obedience, I shall therefore act the part of an Historian so far, as to give you an account of our Laws in both these Cases: And I shall begin it with our *Magna Charta*, which hath been confirmed by Parliaments in every Age, since it was first made; wherein the King grants, *That neither He, nor his Heirs shall procure, or do any thing, whereby the Liberties therein granted shall be infringed; and if any such thing be procured, it shall be of no force: And in the Original Grant, yet preserved, and in the hands of the Bishop of Salisbury, it is provided, That in case the King should violate any part of the Charter, and refuse to rectifie what was done amiss, it should be lawful for the Barons, and People of England to distress him by all the ways they could think on; such as the seizing his Castles, Lands, and Possessions, &c.* Bracton hath been often quoted, who says, l. 1. c. 17. *The King hath for his Superiors, God, and the Law; by which he is made King, as also his Court the Earls, and Barons, who when they see him exorbitant may restrain him: And l. 1. c. 2. The Laws of England being approved and confirmed by the King's Oath, cannot be altered: And c. 17. Let Kings therefore temper their Power by the Law, which is the Bridle of Power: And c. 8. The King in receiving Judgment, may be equalled with the meanest Subject. L. 2. c. 24. The Crown of the King is to do Justice and Judgment, and to preserve Peace, without which he cannot subsist: (i. e.) As in the Laws of King Edward, c. 17. The King is constituted for the Liberty of the People; which if he do not, Nec nomen Regis in eo constabit: And that by the word (Heir) all Suc-*

Successors are meant, though not expressed in words.

Fortescue, fol. 27. says, *From that Power which flows from the People, it is not lawful for him to Lord it over them by any other Power; that is, a Political not a Regal Power.* And fol. 32. *The King is set up for the Safeguard of the Laws of his People.* The Sword called Curtein was given to the Counts Palatine of Chester to this end: *Ut Regem si aberret habere potestatem coercendi*, saith Matth. Paris, p. 563.

The Parliament in Richard the Second's Case, did refer to an Ancient Statute, whereby it was provided, *That if the King through a foolish obstinacy and contempt of his People, or any other irregular way, should alienate himself from his People, and would not Govern by the Laws of his Kingdom, made by the Lords of his Kingdom, but should exercise his own Will, from thenceforth it was lawful for them, with the consent of the People, to depose him from the Crown:* This Law it seems was embezzelled by that King, for in the Twenty Fourth Article against him, it was alledged, *That he had caused the Records and Rolls concerning the State of the Government to be erased and imbezzelled, to the great detriment of the People.* The Author of the *Mirour* says, p. 8. (speaking of the Rise of the English Monarchy) *That when Forty Princes chose One King to Reign over them, to Govern the People of God, and to maintain the Christian Faith, and defend their Goods and Persons in quiet, by the Rules of Right, and to be obedient to the Rules of Right; if he did not so, he should lose the Name of a King.*

Old *Fleta* speaking of the King's Oath, says, *The King by Vertue of his Oath is especially obliged to the preservation of the Laws, and he is therefore Crowned, that he may Rule the People committed to him, per Judicia, by the Laws.* 15 *Edw.* 3. Stat. 1. *We considering how by the Bond of our Oath, we are bound to the observance and defence of the Laws and Customs of the Realm, &c.* And 20 *Edw.* 3. More at large the King declares: *We perceiving that the Law of the Land, which we by our Oath are bound to maintain, is less well kept, and the execution of the same disturbed, we greatly moved in Conscience in this matter, desiring as much for the pleasure of God, and ease of our Subjects, as to save our Conscience, and to keep our said Oath, &c.* The like is in the Statute of *Provisors.* King *James* told his Parliament the same, *March* 21. 1559. *That the King is bound by a double Oath to preserve the Laws tacitly, as being King, and so bound to protect his People and the Laws, and expressly by his Coronation-Oath: So, as every just King is bound to observe that Paction made with his People by his Laws, framing the Government thereunto: And a King leaves to be a King, and degenerates into a Tyrant, as soon as he leaves off to Govern by Law; in which case the King's Conscience may speak to him, as the poor Woman to Philip of Macedon, Either Govern according to Law, or cease to be King.* And else-where, he says, *If he should not keep the Laws to which he was Sworn, he should be perjured.* But I proceed to the Statute of 11 *H.* 7. *That from thence-forth, no Person attending on the King for the time being, and doing him true and faithful Service of Allegiance in his Wars, should in any-wise be Convict or Attaint of High Treason, nor of other*

other Offence for that cause, but to be for that Service utterly discharged of any vexation, trouble, or loss. The Lord Bacon, p. 144. *Hist. of Hen. 7.* gives a Reason of this Law, as agreeable with Reason of State, that the Subject should not enquire of the justness of the King's Title or Quarrel; And it was agreeable to good Conscience, that whatever the Fortune of the King were, the Subject should not suffer for his Obedience. The Spirit of this Law saith he, was wonderful Pious and Noble, being like in matter of War to the Spirit of David, in matter of the Plague, who said, *If I have sinned, strike me; but what have these Sheep done?* Neither wanted this Law parts of Prudence and deep fore-sight, for it did the better take away from the People occasion to busy themselves, to pry into the King's Title, for that however it fell out, their Safety was provided for; besides, it could not but greatly draw to him the love and hearts of the People, because he seemed more careful for them, than for himself.

To this purpose the Lord Cook, p. 7. of his third Book of *Institutes*, speaking of Treason, says, *That the Act for Treason is to be understood of a King in Possession of the Crown and Kingdom;* for if there be a King Regnant in Possession, although he be *de Facto* only, and not *de Jure*; yet is he within the purview of this Statute, and the other, which hath Right, and is out of Possession, is not within this Statute. And if Treason be committed against a King *de Facto*, and not *de Jure*, and afterwards the King *de Jure* cometh to the Crown, he shall punish the Treason against the King *de Facto*; and a Pardon granted by the King *de Jure*, that is not also King *de*

de Facto, is void. It is the Opinion of Lawyers, That *Melior est conditio possidentis* : And Judge *Hayes* gives the same sense of that Statute, in his *Remarks* on the *Pleas of the Crown*, Chap. of *Treason*. The Lord Cook says, 'Tu against all Reason that the King's Politick Capacity may not be separated from his Personal, seeing his private Will is distinct from his publick Will, express in the Law.

Littleton, in his *Tenures*, Title of *Homage*, Sect. 85. says, *Allegiance is due to every one* (in Possession) *that becomes King, and to no other*. And Judge *Popham*, in his *Reports*, fol. 16, 17. mentioneth a Case to our purpose; *Richard the Third* granted certain Priviledges to the City of *Gloucester*, with a *Salvo* to him and his Heirs. And in *Queen Elizabeth's* days, it was questioned, whether the *Salvo* did pass to her, she not being Heir to King *Richard*, and all the Judges did Resolve, that the *Salvo* did pass to her.

Sir *Edward Cook*, in his *Institutes on Magna Charta*, alloweth, That the King hath no Power over the Militia to Muster his Subjects, but only in such cases and manner as the Parliament by special Acts hath prescribed. And p. 147. That the Right of Electing Sheriffs was anciently in the People, as in *London*, *York*, *Brussels*, &c. So the *Hereticks*, or Lord-Lieutenants, in every County, were chosen by a *Folkmore* in their Counties, *Lamhard. Arch. p. 135.*

And *Spelman*, on the word *Legislatio*, says, it is *Arbitrium vinculum inter principem & subditos.*

It would be tedious to relate all that *Grotius* hath said, though very pertinently, and rationally. I shall name a few of such Observations as come home to our Case; *L. 1. c. 4. §. 7. n. 3.* It is to be observed; that Men did not at first unite in Civil Communities by any Command from God, but voluntarily, and from the experience they had that private Families were unable to resist Foreign Force; from hence grew Civil Power, which *St. Peter* calls, a Humane Ordinance, though elsewhere it be called a Divine, because God approved it, as convenient for the good of Mankind; but when God approves of a Humane Law, he must be supposed to do it after a Humane manner.

L. 2. c. 14. §. 4. That Promises fully made and accepted; do naturally transfer a Right, and this holds as well in Kings as in private Persons. *L. 2. c. 13. n. 16.* If a Promise, confirmed by Oath, be grounded on a Condition, whereto it related, that Condition not being performed, makes the Promise void; or if the Quality of the Person cease, the Oath sworn to that Person, in relation to his Quality, doth cease also. *L. 2. c. 13. n. 18.* Every Contract, though sworn, is to be understood with this reserved Condition, That matters continue in the same state. A wise Man, saith *Seneca*, changeth not his Resolution; all things continuing as they were when he made it; nor can he be said to repent, because at that time no better Counsel could be followed than that he resolved on, *L. 2. c. 16. n. 27. eadem mihi omnia praeſta & idem sum.*

Such Persons as are under Compact with the People, if they offend against the Laws, may be restrained.

strained by Force: And if a King desert and abjure his Kingdom, all things are Lawful against him, as against a private Person; and he quotes *Barclay. That if a King alienates his Kingdom, or subjects it to another, he loseth it*; and I doubt not but in such a case he may be resisted. The Empire is one thing, and the manner of administering it is another thing; which the People may hinder from being changed, for that is not in the Empire; and from *Sen. l. 3. contr.* Although I must Obey my Father in all things, yet not in that wherein he ceaseth to be a Father; *Consistere enim non potest voluntas imperandi & perdendi.* And if a King have one part of the Empire, and the People another, the King attempting to destroy the Peoples Right, a just Force may be opposed. *L. 2. c. 7. n. 27.* in a Question concerning the Right of Succession, it is not amiss to take the Advice of the People, as *Camden* says of *England, Anno 1571.*

Gratius de Jure belli, p. 93. c. 4. §. 20. In a Controversie (concerning the Title to a Kingdom) a private Man must not undertake to become a Judge, but follow the Possession; for thus Christ commanded Tribute to be paid to *Cæsar, Matth. 22. 20.* because he was in Possession, and the Money bare his Image.

L. 2. c. 25. n. 4. He approves of a War on behalf of Confederates, because he that doth not repel an Injury from his Confederates, if he can, is as much in fault as he that doth the Injury; and he commends *Constantine* for making War on *Maxentius* and *Licinius*, who persecuted such of their own Subjects as were Christians, only for their Religion; and

and l. 2. c. 20. n. 39. *Injuries begun only, are not to be vindicated by Arms, unless the matter be both very weighty, and proceeded so far, that from what is already done, either a certain Mischief, though not yet what was intended, hath already befallen, or some extraordinary danger do threaten thereby; if an Enemy hath once assaulted me, and comes armed with a resolution to kill me, I am not bound to tarry till he comes within reach of me, but seasonably to prevent him; And l. 2. c. 25. n. 8. Those Princes who are free, may make War for themselves or others; and though we should grant that Subjects may not take Arms for their own Defence against their Prince (which yet is doubted even by those whose purpose it was to defend Regal Power) yet it follows not that Princes may not take Arms in their Defence; that which is unlawful for one to do, by reason of a personal Impediment, may be lawful for another to do for him. As in Affairs of the Church, Bishops are said to take on them the Care of the Universal Church; so besides the care of their particular Dominions, Kings assume the general Care of Humane Societies. So Seneca, *Bello à me peti potest qui à mea gente sepositas suam exagitat*. This which I have named from this Renowned Casuist may suffice to silence all the Objections of such as are of the Historians perswasion, and to quiet the Consciences of such as have taken the late Oath to the present King and Queen.*

I proceed now to our later Lawyers and Casuists, and Selden deserves the first place, who, *de Jure Nat. l. 1. c. 8. p. 106.* says, *That by permission of Nature it hath been granted, that whatsoever*

hath been by Men joyned in Society, limited; forbidden, or constituted, that they are bound to keep, who have so consented according to the Conditions and Qualifications wherewith it is prescribed, even as in any as have, and as they have given their consent; but whence is it they are so bound? From the Authority of a Deity (i. e.) of Man's Superiour, even from those things the rise of the Authority is derived, and therefore from some Heads of the Law of Nature. Lod. Vives, on St. Augustine, de Civ. Dei, l. 4. c. 5, 6. takes Notice of the first words of Justine (viz.) That in the Beginning the Rule of Nations was in the hands of Kings, whom not Popular Ambition, but their Moderate Carriage, approved by the good, advanced to that height of Honour.----- That the People elected such Kings to be their Guides, and Over-seers of Publick Interest, and that they were not compelled to take such a one to them as happened any way; neither did Nobility, or the seeking of a Party carry it, but every Man's own private good, with the good of the Publick, was so near to him, that it made him to make choice of none but the best. And Juvenal observes, Satyr 10. That it was the People, *Qui dabat olim, Imperium faces legiones Omnia.*

I shall crave Pardon, if I here insert a little of what our Judicious Hooker hath said in our Case, to countervail what the Historian hath quoted, as his Judgment. Now thus saith he, l. 1. c. 10. *Though wise and good Men are fit to make Laws, yet Laws take not their constraining Power from those that make them, but from the Power which gives them the strength*

Strength of Laws. And by Natural Law the Lawful Power of making Laws, whereunto all Societies are subject, belongs so properly to those entire Societies, that for any Prince or Potentate whatsoever to exercise the same of himself, and not either by express Commission from God, or Authority derived from their consent upon whose Persons they impose Laws, is no better than Tyranny. Laws they are not, which Publick Approbation hath not made: What is the Chaff to the Wheat? That Quotation from an imperfect, broken, exploded Fragment, to this substantial Argument?

I shall not swell this Tract by those Excellent Discourses of *Puffendorff*, translated by the Author of the Answer to Popular Objections. I shall mention but two Sentences of his; first, from his Tract *de Interregno*, p. 272. *If a King abdicates the Peace of his Kingdom, and be of an Hostile mind, or departs from the Rules of Government, the ground of the Subjects Obedience is made void. As in the Digests, l. 49. Tit. 15. Qui fugit ad eos cum quibus nulla est amicitia à fide suscepta transfugit.* The second is, *de Jure Naturæ*, p. 1008. *Such as desert the Government, or abdicate the Kingdom, against them is Lawful whatever is Lawful against a private person. Also if a King that is constituted by his People, would alienate his Kingdom, or alter the form of Government, if he continue to effect it by force, the people may resist him by force.*

Carpzoriuss, an approved Author, *De Capit. Cæs.* c. 1. p. 15. says, *There is no King in the Christian*

World, whose Power some Comptail made with the several Orders of the People, may not restrain and limit, and which are not bound by the Capitulation. Reinbech says the same of the Empire, That Cæsar is bound by the Laws. And Bodine, concerning France, Principem contra leges nihil posse & rescriptis ejus nullam rationem haberi debere nisi aequitate perinde ac veritati consentanum fiat.

The Historian may be satisfied from these Men; that much more than hath been practised by our Nation, hath its Approbation in such a Case as we were reduced to.

But to return home, that saying of King James is very memorable, *That the King is for the Commonwealth, and not the Common wealth for the King.*

Albericus Gentilis, Professor of Civil Law, saith, *That he that would keep himself out of danger, must meet and prevent it; which is a point of greater Wisdom and Courage, than to expect it, and revenge it. ----- If our Adversary have declared his Will, and is preparing a Power to hurt us, we may not tarry to receive the first blow, but anticipate the Evil as Gladiators do. Yea, it hath been always the Practice to put a stop to the Ambition of great Monarchs, who have unjustly invaded one Man's Dominions, lest he should attempt others; hence the Princes of Christendom have been careful to preserve an equal Pallance between growing Empires. Thus Baldus says, It is a fault to omit the defence of another, but of our selves a breachery. And Siracide, Eccles. 4. Free*
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him to whom Injury is done, out of the band of the injurious. And Constantine says, We ought to account of the Injuries done to others, as our own. Thus Justin answered the Persians, That he ought to defend the Christians, whom they would compel to forsake their Religion. And Queen Elizabeth defended the Hollanders against the Spaniards, who if they had broken down that Pale of Religion (as Lipsius calls it) would have extended their Tyranny farther.

King Charles the First, in answer to the Nineteen Propositions says, *The Lords being trusted with Judicatory Power, are an excellent skreen between the Prince and the People, by just Judgment to preserve the Law*: Therefore the Power legally placed in Both Houses, is more than sufficient, to prevent and restrain the power of Tyranny. Dr. Ferne pleading his Cause, grants, That personal Defence, against the sudden Assaults of the King's Messengers, if illegal, tho' the King be present, is lawful, even to warding off the King's blows, and to restrain him, and to preserve the innocent.

Peter Martyr on Rom. 13. *We may not anxiously dispute by what Right or Wrong Princes have obtained their Power, but rather make it our business to obey the present Magistrates.*

Judge Vaughan: *In Cases that depend on Fundamental Principles, Millions of Presidents to the contrary are to no purpose.*

Judge

Judge Jenkins says, *We hold only what the Law holds, the King's Prerogative, and the Peoples Liberties are both determined by Law.* And so King Charles the First's Declaration at York says, *That his Prerogatives are built on the Laws of the Land:* And when the Parliament would have him grant an extraordinary Power to some Lords-Lieutenants, he tells them, *If they would have him grant more Power than by the Law of the Land was in him, it was fit that the same should by some Law be first vested in him, with full Power to transfer the same.* The same Judge Jenkins speaking of the Oath of Supremacy, says, *We do not swear that the King is above all Laws, nor above the safety of the People, but his Majesty, and we will swear to the contrary.* The Law and the Safety of the People, are the King's Honour and Safety, and Strength: And when *Hobbs* extended the Power of the Prince above the Law; the Earl of *Clarendon* answers, *That in dangerous Circumstances Men are not to resort so much to the Words of Submission, as to the Intention of the Law Givers, which could not be that the Prince should have Power to take away the Lives of his innocent Subjects; nor could such a Submission be ever supposed to be the mind of the Contractors.* This may serve in answer to the Declaration, *That it is not lawful on any pretence whatsoever, &c.* which was past the House, not without great opposition, by a mercenary Party of Pensioners, and was destructive of many ancient Laws, and an alteration of the Government; making it absolute, and in itself null: For as *Sberringham*, who learnedly defended *Charles the First*, says, *Those Laws which are made for*
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the benefit of the Prince and People, are Fundamental, and Foundations cannot be altered, without the Ruine of the whole Building. If therefore that Declaration, or any other Act is contrary to the Fundamental Laws, it is invalid.

And now we come to that Declaration of the Lords and Commons, who as it became the Masters of the Assembly, have fixed our Government, as a Nail in a sure place: They found us as Sheep without a Shepherd, and in the midst of many grievous Wolves, ready to devour both them and us; they considered that the late King had exercised a Power of suspending Laws; committed the Bishops for Petitioning to be excused from concurring to that Power; That he erected a Court for Ecclesiastical Causes, by Commissioners; Levied Money without Consent of Parliament; kept up a Standing Army; disarmed Protestants, and armed Papists, and Quartered them contrary to Law; violated the Elections of Parliament; broke the Seal, or cast it away, and deserted the Government and Kingdom; and did thereupon declare, that he had abdicated the Kingdom, and left the Throne vacant; they being assembled in Parliamentary manner; did for the Redress of those Grievances (other means being denyed them) as their Ancestors had done in like Cases) declare the Prince and Princess of *Orange*, to be King and Queen of *England*, &c. And appointed the present Oath to be taken, instead of the Oaths of Supremacy and Allegiance; which Methods have been taken in the like Cases by all Nations, as well as our own.

And

And I know not what Authority or Reason should determine our Judgments, if these cannot; for let us suppose, that the late King at his departure (whether it were forced or voluntary) had left behind him in Writing, under his own hand, a Declaration to the following effect, which consisting of undeniable Matter of Fact, is no less Authentick:

-----We do declare to all the World, That the the Church of *England* as by Law Established, hath on all occasions signally manifested all due Loyalty to Our Royal Father, and Brother, as well as to Our self, particularly in opposing the Bill for Excluding Us from the Throne, and assisting Us in suppressing the Rebellion of *Monmouth*, for which Reasons we thought fit and just at Our coming to the Crown, solemnly to declare Our Royal Intention to support and defend it in all its Rights, and confirmed our Declaration by our Coronation-Oath; but having wholly devoted Our Self to the *Romish* Religion, and Papal Authority, We were absolutely resigned to the Conduct of such, as by that Authority were appointed to Counsel and Direct Us, who having convinced Us of a Power to Absolve Us from Our Oaths, and that no Faith is to be kept with Hereticks; and also how Meritorious a Work it would be to root that Pestilential Schism and Heresie, whereof the *English* Church was the chief Bulwark, by which We should merit a better Crown; and that it would be to Our Damnation, to keep Our said Oath; We thought Our Self Obligated in Conscience, industriously to attempt the Destruction of

of that Church, and the introducing of Popery into Our Kingdoms : In order whereunto We having entred into a League with Our Brother of *France*, have pursued those well-known Methods. We have discarded all such Officers Military and Civil, as would not comply with Our Royal Intentions ; and having Established a Standing Army, We committed their Conduct to such Papists, and other Sectaries in Our Kingdoms of *England* and *Ireland*, as would serve Our Designs ; and for their Security, We suspended and dispensed such Laws as incapacitated them for such Offices ; and caused the Bishops and Clergy, who by their Petition and Refusal to Read Our Declaration to that purpose, to be Imprisoned ; and by Our Commission for Ecclesiastical Affairs, We suspended the Bishop of *London*, and turned out the whole Society of *Magdalen* Colledge, to plant Men of our own Perswasion in their place ; as also We founded divers Schools, Seminaries, and Colledges, for several Orders of the *Romish* Perswasion ; and as a farther check to that Church, We gave such a Toleration to the Sectaries, who were profess'd Enemies to that Church, as we promised to make unalterable. To which end it was advised, to impose a Suppositious Heir on Our Kingdoms, that they might not fear an alteration from our Lawful Successors. Which Proceedings the Prince of *Orange* conceived to be a Just Cause of War, as well for the Vindication of his Princess, her Right to the Succession, as for Reddressing the Grievances (as they were called) of Our discontented Subjects ; who thereupon Inva-

ded Our Kingdom by a Forreign Army, and by the Revolt of Our Army from Us to him, reduced Us to a necessity of submitting Our Self to his Power, and to come under a Guard of his Souldiers for the Security of Our Person. During these Distractions, We were advised by Our Bishops, and other Subjects, to admit of a Treaty, and to Summon a Free Parliament, which for Our present Security We seemed willing to do: But well-knowing those great and necessary Ends by Us designed, would be by such means made void, We caused those Writs that were made ready for the Summoning of our Parliament, to be destroy'd; We cast away our Broad Seal, disbanded Our Army, and left Our Kingdoms in Confusion; and committed Our Royal Person to Our Brother of *France*, hoping that by his Assistance, and by the Divisions which We should foment among Our Subjects, fully to accomplish in a short time Our Religious Intenrions, to the rooting out of all that should oppose Our Royal Pleasure, after the admired Example of Our Brother of *France*.

Now this being the lively Pourtraicture of the late King, and the Truth of the Case between Him and the Kingdom, what could the Nation do les, than to provide themselves of another Governour? And who more fit, than those who by Common Consent, as well as by Right of Succession are now set over us? To whom Our Allegiance on these Accounts is as due, as if the late King were actually dead: And when all the Princes
of

of Christendom (except only *France*, who aspires to a Universal Monarchy) have owned our King and Queen as rightful Sovereigns, it is an unexcusable singularity and obstinacy, for a few private Persons to stand off.

It must be acknowledged that some Divines acting beyond their Sphere, have rested in general Notions concerning Government, as Men in the Clouds; and others have made such Conclusions as the Premises would not bear, and this hath been the ~~upshot~~ ^{source} of the Foundation and Cause of many Errors; for if from General Propositions or Rhetorical Expressions, or from Arguments urged in the heat of Disputations, as also from Laws made on emergent and present Occasions, we should frame Rules for our Faith or Obedience, we should incur many great Errors as well in Polity, as in Morality and Divinity; for from such beginnings grew up the Doctrines of Praying to Saints, and to the Virgin *Mary*; of Purgatory, and Prayers for the Dead; Indulgences, and Pardon of Sins past, present, and to come; Worshipping of Images; Transubstantiation; the Supremacy, and Infallibility of the Pope; and from the Doctrine of Non-Resistance, &c. rigidly understood, Princes, who are generally Men of Great Passions, would be under almost irresistible Temptations of fulfilling all their Lusts: And the Subjects in that Case be of all Creatures the most miserable.

Whatever therefore the Authors of such a Law might have in Speculation, I am confident they never intended to suffer it to be put in Practice on themselves. And such a Government would be worse than Anarchy, and a State of Nature, which allows, *Vim vi repellere*, to defend themselves against violent Aggressors. The People could not be more miserable when there was no King in *Israel*, than when they had a *Roboam*, to chastise them with Scorpions, as his young rash Counsellors would have advised him to have done.

We may say of some Laws, as of some Truths, if we follow them too close at the Heels, they may dash out our Teeth.

And sometimes there are such Legislators, as like the Pharisees, bind heavy Burdens, and lay them on others, which they will not touch with one of their Fingers. And I think without breach of the Rule of good Manners, I might desire those who made those Laws, against offensive or defensive Arms in any Case, and those that adhere so precisely to the Doctrines of Non-Resistance and Passive Obedience, whether if the late King should return with *French* Dragoons, or *Irish* Cut-Throats, they would cast themselves at their Feet, and offer their Throats to their Swords, as a willing Sacrifice to their own Laws, and Examples to their own Doctrine.

When

When the Scripture Commands *Wives to obey their Husbands in all things*, no good Wife will think her self bound to Obey her Husband, if he should Command her to Steal, Murther, and prostitute or kill her self. Such things which Nature abhors, need not be excepted out of general Precepts. And what an insolent and odious Reflection would it be upon a King, if when his Parliament presented him with such a General Law for his consent, they should tell him, *Sir, we have framed such a Law for Your Majesty's Safety, That it shall be Treason for any to take Arms, Offensive or Defensive, on any pretence whatsoever, unless contrary to all Laws of God and Men, Your Majesty shall turn a Turk, or an Idolater, and force your Subjects to become such; or shall against Law, dispossess us of our Free-holds, Ravish our Wives, destroy our Religion and Laws, to which you have sworn; yet though such things be not in exprefs words excepted, there is no doubt but it was the intention of the Legislators to exclude them out of those Laws, which were made with respect to a more particular occasion, as the face to those Laws plainly sheweth.*

It is notoriously known, how hardly the Church was beset by two busie and powerful Factions when those Laws were enacted, who, though they agree in Principles tending to Rebellion; yet, that they might undermine the Church, they found Patrons, and an Interest in Court and Council, in the Reign of *Charles and James the Second*; and how opposite soever the Factions were to each-other, they were still

Still ready to unite against the Church, as their Common Enemy; in which case it was requisite, that the Members of the Church should use all honest means to retain their Superiours in a good Opinion of their undoubted Principles of Loyalty, and to press the same Duty on such as were suspected to be of a contrary Mind; against whom the Parliament especially intended those Tests and Declarations; for who can suppose them such Madmen, as to make a Law upon a particular emergent Occasion, as should cassate and destroy all other Laws for the preservation of their Religion, Lives, and Liberties, and to establish Tyranny, Popery, and Idolatry, by Law, if the King will have it so; for which end he may by the killing letter of that Law, when ever he pleaseth, bring in what Foreign Forces he pleaseth to eat us up, and no Resistance must be made; if this Law be strictly understood, without any Reserve, or Consideration of the Occasion of making the Law, and the intention of the Law-givers, which undoubtedly was their own and the preservation of the Nation.

And wise Men think, that if there should be such a pack of Law-makers, as to serve a turn of their own, should have no regard to the over-turning and perverting, as well of the Duties we owe to God, our Neighbours, and our selves, as the Ancient Fundamental Laws of the Land, that they are utterly void, and we should sin more in swearing to keep such Laws, than in not observing them.

The Historian reflects so severely on some Divines, as if he came with a Commission from James the Second, to execute on them the consequences of the Doctrines of Non-Resistance and Passive-Obedience; they are Arraigned and Condemned as Apostates, Traytors, and perjured Persons; and when time serves, they shall not want an Executioner. In the mean time, he directs a fatal blow at one single and obscure Person, but through him wounds all the rest, who, though they be many Heads, yet all standing on the same Neck, and our Historian thinks he hath got the Advantage which Nero wished for; however, he thinks he deals friendly with him, if, as Butchers are wont to use their Swine, who scrape them a little before they cut their Throats. Mr. Long (says he) is so well known for his Zeal in this good Cause (viz. of Non-Resistance, and Passive-Obedience) to all that have seen his Answer to Mr. Johnson and Hunt, His no Protestant but Dissenters Plot, and other such Treatises, that it is wondrous that of late he should own himself the Author of the Solution of the Popular Objections, &c.

Ans. They who have known Mr. Longever since the War began against Charles the First, know that he hath inviolably practised those Doctrines himself, to which in those Writings he perswaded others, and shrunk not from them after the Prince of Orange came to Exeter, as the present Bishop of Salisbury, and several Members of the Church of Exon can attest; and continued to Pray for the late King, until

til he received Order for the contrary, though he were publickly disturbed for so doing; but when he considered that the late King had deserted the Government, and left us in Confusion, that the State of the Kingdom had admitted their present Majesties to the Throne, even then, though our Governours were changed, he changed not his Opinion of the Doctrine of Non-Resistance, and Passive Obedience, but thought that it ought to be transferred from the Person of the late King, to the present King and Queen; so that it is no wonder that he owns himself the Author of the Solution of Popular Objections, wherein if any thing be urged by him that seems to comply with the Opinion of Mr. *Johnson*, &c. it was an Argument *ad hominem*, and in such a case as happened after Mr. *Johnson* had written, and was scarce thought possible to happen, and we hope never will more.

And though he needed not that Apology of St. *Austine*'s making retractions, and to confess, *Errare possum Hereticus esse nolo*, yet he thinks it much better to do so, than with *Bellarmino*, to make such Recognitions, as should declare his Obstinacy in a dangerous Error, as the Historian doth.

And as to the particular Quotations from a Sermon of that Authors, the Reader may observe, that they were aimed at the Popish and Fanatical Doctrines of Resisting and Deposing Lawful Princes, for the good of the *Kirk*, and *Mother-Church*, and do not touch a hair of them that did neither Resist nor Depose, nor are any way guilty, unless
their

their not fighting with *Papists* and *Irish* unqualified
 Miscreants for the utter Destruction of our Church
 and Religion, and the establishing of Popery and
 Slavery, be a Crime of that Magnitude, as to be
 accounted Perjury and Treason, which seeing the
 late King's Souldiers very honourably and worthily
 refused, it could not be expected from those who
 were to fight under another Banner.

What remains then, but that we study to be
 quiet, and to do our own business, not provoking,
 not envying, or standing one another, but leaving
 the Government of the Nation to God and our Su-
 periors, make it our business to govern our selves
 according to the Laws of God and the Land, and to
 follow the things that make for Peace, and where-
 by we may edifie one another; and not publish Hi-
 stories, with a design to foment Divisions, to alie-
 nate the Affections of the People from their present
 Governours, and to run us again into Confusion.

And although the Author of the History do con-
 ceive that either we have been too sinful, in not as-
 sisting the late King (though it were out of our
 Power) or not Passive enough in our Obedience to
 him, yet I shall still think it my Duty to Pray,
 that neither he nor we may sin in resisting Lawfull
 Authority, nor suffer under an Unlawful and Ar-
 bitrary Power, *Lead us not into temptation.*

And I hope that all good Protestants will joyn
 with me, not only in this Prayer, but in that Thankf-
 giving of the Royal Prophet, *Psal. 66. 8, 9, &c.*

O Bless our God, ye People, and make the voice of his
 praise to be heard, which holdeth our Soul in life, and
 suffereth not our feet to be moved, for thou, O God hast
 proved us, thou hast tryed us as Silver is tryed. Thou
 broughtest us into the Net, thou laydest Affliction on our
 Loyns, thou causedst Men to ride over our heads, we
 went through fire and water, and thou broughtest us
 out into a wealthy place. I will go into thy House with
 burnt-offerings, I will pay thee my Vows.

F I N I S.

ADVERTISEMENTS.

A Resolution of Certain Queries, concerning Submission to the Present Government.

THE QUERIES.

- I. Concerning the Original of Government.
- II. What is the Constitution of the Government of England?
- III. What Obligation lies on the King by the Coronation-Oath?
- IV. What Obligation lies on the Subject by the Oaths of Supremacy, &c.
- V. Whether if the King Violate his Oath, and actually Destroys the Ends of it, the Subjects are freed from their Obligation to him?
- VI. Whether the King hath Renounced or Deserted the Government?
- VII. Whether on such Desertion, the People, to preserve themselves from Confusion, may admit another, and what Method is to be used in such Admission?
- VIII. Whether the Settlement now made, is a Lawful Establishment, and such as with a good Conscience may be Submitted to?

By a Divine of the Church of England, as by Law Establish'd.

A full Answer to all the Popular Objections that
 have yet appear'd, for not taking the Oath of Alle-
 giance to their present Majesties, particularly offer'd
 to the Consideration of all such of the Divines of the
 Church of England, (and others) as are yet un-
 satisfied: Shewing, both from Scripture and the Laws
 of the Land, the Reasonableness thereof, and the
 Ruining Consequences, both to the Nation and Them-
 selves, if not Complied with. By a Divine of the
 Church of England. &c. &c. Sold by Richard Baldwin
 in the Old-Bailey.

- England:
 I. What Oath is due to the King?
 II. What Oath is due to the King?
 III. What Oath is due to the King?
 IV. What Oath is due to the King?
 V. What Oath is due to the King?
 VI. What Oath is due to the King?
 VII. What Oath is due to the King?
 VIII. What Oath is due to the King?
 IX. What Oath is due to the King?
 X. What Oath is due to the King?
 XI. What Oath is due to the King?
 XII. What Oath is due to the King?

The Rights of the People of England, &c.

II